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Council of Carpenters, Pete Rodriguez, Ron
Diament, Alexis Olbrei, and Daniel Langford*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

THE ICON AT PANORAMA,
LLC,

Plaintiff,

v.

SOUTHWEST REGIONAL
COUNCIL OF CARPENTERS, et
al.,

Defendants.

Case No. 2:19-cv-00181 CBM (MRW)

**APPLICATION FOR LEAVE
TO FILE UNDER SEAL**

Hearing Date: January 30, 2024

Time: 10:00 a.m.

Place: Courtroom 8D

Before: Hon. Consuelo B. Marshall

Dated: January 16, 2024

1 Concurrent with this Application, Defendants Southwest Regional
2 Council of Carpenters, Daniel Langford, Alexis Olbrei, Ron Diament, and
3 Pete Rodriguez (the “Carpenters defendants”) are filing their Reply in Support
4 of Motion for Terminal Sanctions or to Exclude Improperly Obtained and
5 Selectively Preserved Evidence (the “Reply”) and associated materials and
6 exhibits.

7 Pursuant to Local Rule 79-5, the Carpenters defendants respectfully
8 submit this Application for Leave to File Under Seal certain information
9 designated by Plaintiff The Icon at Panorama, LLC as “Confidential” or
10 “Highly Confidential.”

11 *The Carpenters defendants make this application solely because Plaintiff Icon*
12 *has insisted that certain information Icon has designated as confidential must be*
13 *filed under seal. The Carpenters defendants thus make this application solely so*
14 *that Icon can present its arguments to the Court, and so that information that Icon*
15 *contends must be kept under seal is not made available on the public court record in*
16 *possible violation of this Court’s protective order until the Court has the opportunity*
17 *to rule on this application.*

18 19 BACKGROUND

20 Before filing the Reply, counsel for the Carpenters defendants contacted
21 counsel for Icon on January 13, 2024, regarding whether Icon contended that
22 certain information designated by Icon as “Confidential” or “Highly
23 Confidential” under the Protective Order in this matter (ECF No. 272) met the
24 standards to be filed under seal. Ferraro Decl. ¶ 3.

25 On January 15, 2024, counsel for Icon identified information that Icon
26 contended required sealed status. Ferraro Decl. ¶ 3. The document proposed
27

1 to be filed under seal is attached hereto as Exhibit A, and portions are
2 referenced in the Reply, attached hereto as Exhibit B.

3 Exhibit A includes 12 pages of the deposition transcript of Billy
4 Ruvelson. This portion of Mr. Ruvelson's deposition involves testimony
5 regarding: the fact that two successive Attorney Generals of California
6 supported the unions' position in the state-court litigation under the California
7 Environmental Quality Act (CEQA) that Icon now claims was frivolous; Mr.
8 Ruvelson's support for Nathan Hochman, a candidate running for Attorney
9 General of California; the likelihood of reform to CEQA via the legislative
10 process; and the legality of project labor agreements between unions and
11 developers. The last page of the 12-page passage in question mentions Icon's
12 offering memorandum.

13 Icon asserts that these 12 pages must be filed under seal because they
14 involve "protected speech" and "political advocacy" and because one page
15 refers to Icon's offering memorandum. Ferraro Decl., Exhibit C. Icon also
16 incorrectly speculates that the information is attached to the Reply out of
17 "spite." *Id.* The information is included because it is admissible fact discovery
18 that sheds light on Icon's motives in filing the federal lawsuit at issue here.

19 Exhibit B is the Carpenters' Reply. In addition to information contained
20 in Exhibit A, the Reply references information that is currently the subject of a
21 pending Application for Leave to File Under Seal (ECF No. 304). Ferraro
22 Decl. ¶¶ 4–6. The Carpenters defendants have redacted references to the
23 information in their Reply.

24 25 **ARGUMENT**

26 "That the information may have been designated confidential pursuant
27 to a protective order is not sufficient justification for filing under seal." L.R. 79-

5.2.2. Instead, the Local Rules of this Court establish “the standards that will be applied when a Party seeks permission from the court to file material under seal.” *Id.* Those Rules require that the proponent of filing under seal (here, Icon) establish “good cause or compelling reasons why the strong presumption of public access in civil cases should be overcome.” *Id.*

The Carpenters defendants seek leave to file under seal solely because Icon insists that the particular items of information discussed above and attached hereto meet the standards for filing under seal.

CONCLUSION

If the Court is persuaded by Icon’s argument that the aforementioned information qualifies for sealing, the Carpenters defendants respectfully request that the Court grant their Application for Leave to File Under Seal and enter the accompanying Proposed Order.

If the Court rejects Icon’s argument that the information qualifies for sealing, the Carpenters defendants respectfully request that the Court order the unredacted materials be filed on the public record.

Respectfully submitted,

DATED: January 16, 2024

SHANLEY APC

/s/ Desmond C. Lee

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12 *Langford, Alexis Olbrei, Ron Diamant*
13 *and Pete Rodriguez*
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Application and supporting exhibits were served on all counsel of record via CM/ECF.

Dated: January 16, 2024

/s/ Desmond Lee

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